



04-0-1810

AN ORDINANCE by Council member Debi Starnes

AS SUBSTITUTED BY FINANCE/EXECUTIVE COMMITTEE

**AN ORDINANCE AMENDING CERTAIN SECTIONS OF THE CITY OF ATLANTA OCCUPATION TAX ORDINANCE BY THE ADDITION AND DELETION OF CERTAIN LANGUAGE; REPEALING AND REPLACING CERTAIN OTHER SECTIONS CONCERNING THE IMPOSITION OF THE OCCUPATION TAX ON ATTORNEYS; CONFIRMING THE EFFECT OF CITY CODE SEC. 2-105 ON THIS ORDINANCE; AND FOR OTHER PURPOSES.**

WHEREAS, pursuant to O.C.G.A. § 48-13-2 *et seq*, the City of Atlanta levies and assesses an occupation tax on each person engaged in any business, trade, profession or occupation located within the jurisdiction of the city and on each person whose business, trade, profession or occupation, is carried on, operated or performed within the jurisdiction of city; and

WHEREAS this tax is a significant source of revenue for the City which can only be utilized in compliance with the aforementioned provisions of state law; and

WHEREAS in the case of *Barnes et al v. City of Atlanta*, Fulton Superior Court Civil Action Number 2000cv24809, certain sections of the City Occupation Tax Ordinance imposing the tax on attorneys with an office in the City of Atlanta were found to be an unconstitutional precondition of the practice of law; and

WHEREAS, the Supreme Court of Georgia has held that the imposition of the occupation tax on attorneys is permitted if it is done in a constitutional manner; and

WHEREAS, the City desires to amend certain sections of the Occupation Tax Ordinance to repeal those sections found to be unconstitutional and to amend those section so as to impose this tax on attorneys for the year 2004 and subsequent years; and

WHEREAS, the amendment to the Occupation Tax Ordinance for the purposes of addressing the issues raised by the *Barnes* litigation necessitated numerous changes, such that, for the convenience of the City and the City Council, other changes deemed necessary were incorporated; and

WHEREAS in order to remove any question as to whether Sec. 2-105 of the City Code applies to this ordinance, certain language was incorporated to clarify the Council's position as to these requirements, and



**THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY  
ORDAINS AS FOLLOWS:**

**SECTION 1:** That Chapter 30, Article III, of the Code of Ordinances of the City of Atlanta, Georgia, as amended (the "Atlanta City Code") be and is hereby amended in the manner set forth in Exhibit A, such that the language marked as stricken by the method herein indicated (~~stricken language~~) is deleted and the language underlined is added, such that the Chapter 30, Article III shall appear as set forth in Exhibit B. In the event that there are scrivener's errors, the Municipal Code Corporation is instructed to conform Chapter 30, Article III to Exhibit B. The Municipal Code Corporation is further instructed to amend any tables, schedules or other matter appearing the appendices of the City Code to conform to these amendments.

**SECTION 2:** That while this ordinance does not impose a new fee or charge, that the subject matter of this ordinance is of such importance that if Section 2-105 of the City Code could be interpreted to apply, that the Council declines to apply the requirements of Section 2-105 to this ordinance and hereby waives such requirement. The requirement for a public hearing set forth by O.C.G.A. § 48-13-6(c) shall be a sufficient public hearing.

**SECTION 3:** That this ordinance shall become effective after it is signed by the Mayor or as otherwise provided in the City Charter and shall repeal and replace conflicting ordinances.

A true copy,

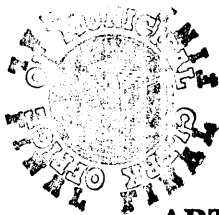
*Rhonda Daughin Johnson*  
Municipal Clerk, CMC

ADOPTED by the Council  
APPROVED by the Mayor

October 18, 2004  
October 20, 2004



## **EXHIBIT - A**



## ARTICLE III. OCCUPATION TAX

### DIVISION 1. GENERALLY

#### Sec. 30-51. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Administrative fee* means a component of an occupation tax which approximates the reasonable cost of handling and processing the occupation tax. For those businesses required to register with the city, the payment of the administrative fee shall also satisfy any requirement to pay the registration fee

*Business* shall maintain its ordinary and customary usage according to context but also may be used to generally identify a person or entity carrying on a trade, occupation, profession, or other commercial or non-commercial enterprise.

*Business tax* means the same as *Occupation tax*.

*Business tax division* means that part of the department of finance made responsible for assisting the chief financial officer with the administration of the occupation tax and according to context may also mean the location where the operations of the business tax division are carried out.

*Certificate* means a document issued to the person after registration of a business and the full payment of any required occupation tax.

*Chief financial officer* includes the chief financial officer's designee.

*Dominant line* means the type of business, within a multiple-line business, from which the greatest amount of income is derived.

*Employee* means an individual whose work is performed under the direction and supervision of the employer and whose employer withholds FICA, federal income tax, or state income tax from such individual's compensation or whose employer issues to such individual for purposes of documenting compensation a form I.R.S. W-2 but not an I.R.S. 1009.

*Gross receipts.*

(1) *Gross receipts* means the total revenue of the business or practitioner for the period, including, without limitation, the following:

- a. Total income without deduction for the cost of goods or expenses incurred;



- b. Gain from trading in stocks, bonds, capital assets or instruments of indebtedness;
- c. Proceeds from commissions on the sale of property, goods or services;
- d. Proceeds from fees for services rendered; and
- e. Proceeds from rent, interest, royalty or dividend income.

(2) *Gross receipts* shall not include the following:

- a. Sales, use or excise tax;
- b. Sales returns, allowances and discounts;
- c. Interorganizational sales or transfers between or among the units of a parent-subsidiary controlled group of corporations as defined by 26 USC 1563(a)(1), or between or among the units of a brother-sister controlled group of corporations as defined by 26 USC 1563(a)(2);
- d. Payments made to a subcontractor or an independent agent; and
- e. Governmental and foundation grants, charitable contributions or the interest income derived from such funds received by a nonprofit organization which employs salaried practitioners otherwise covered by this article, if such funds constitute 80 percent or more of the organization's receipts.
- f. Proceeds from sales to customers outside the State of Georgia. Proceeds from sales of goods which are delivered to or received by customers who are outside of the state at the time of delivery or receipt.

*Location or office* shall not include a temporary work site which serves a single customer or project.

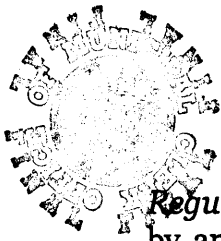
*Nonprofit organization* shall mean a bona fide nonprofit civic, educational or charitable organization.

*Occupation tax* means a tax levied on persons for engaging in an occupation, profession or business for revenue raising purposes.

*Person* means and includes sole proprietors, corporations, partnerships, nonprofits or any other form of business organization.

*Practitioner of profession or occupation* is one who is by state law required to obtain a state license pursuant to the law regulating such profession or occupation. Such term shall not include a practitioner who is an employee of a business, if the business pays an occupation tax.

*Registration* means the application form with information about a business or the act of completing the form. As a matter of administrative convenience, registration forms may also be used for the purpose of compiling such information as deemed necessary to confirm that the type of business to be operated is permitted by the zoning code at the location where the business is to be conducted and to sufficiently identify the location of the business for the purposes of enforcement of this division.



**Regulatory fees** mean payments, whether designated as license fees, permit fees or by another name, which are required by a local government as an exercise of its police power and as a part of or an aid to regulation of an occupation, profession or business. The amount of a regulatory fee shall approximate the reasonable cost of the actual regulatory activity performed by the city. A regulatory fee may not include an administrative fee. Development impact fees as defined by O.C.G.A. § 36-71-2(8) or other costs or conditions of zoning or land development are not regulatory fees.

**Return** means all documents or forms filed with the payment of an occupation tax and/or those documents or forms, which are used to determine any underpayment or overpayment on taxes paid in any previous year.

**Taxpayer** means the person from whom the occupation tax, imposed under this article, is due or was collected.

**Within the jurisdiction of the city** shall mean and include any area within the corporate limits of the City of Atlanta as the same currently exist or as they may be changed from time to time, and any area within the boundaries of the William B. Hartsfield Atlanta International Airport as the same currently exist or as they may be changed from time to time.

#### **Sec. 30-52. Levy.**

As provided in this article and in accordance with state law, an occupation tax is hereby levied and assessed on each person engaged in any business, trade, profession or occupation located within the jurisdiction of the city and on each person whose business, trade, profession or occupation, is carried on, operated or performed within the jurisdiction of city; except that no occupation tax, regulatory fee or administrative fee is levied on any state or local authority or nonprofit organization. In the case of an out-of-state business with no location in Georgia, which exerts substantial efforts within the state and city pursuant to O.C.G.A. § 48-13-7, an occupation tax shall be levied and assessed on such business, trade, profession or occupation.

#### **Sec. 30-53. Purpose and scope of tax.**

The occupant tax levied in this article is for revenue purposes only and is not for regulatory purposes, nor is the payment of the tax made a condition precedent to the practice of any such profession, trade or calling. The occupation tax only applies to those businesses and occupations that are taxed by the local government pursuant to the pertinent general and/or local law and ordinance.

#### **Sec. 30-54. Administration.**

The chief financial officer shall administer and enforce this article for the levy, assessment and collection of license fees, occupation taxes, and any fees, interest



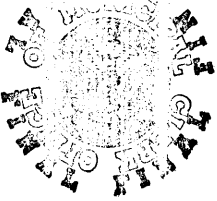
and penalties imposed in this article except for those fines or court costs that are judicially imposed.

### **Sec. 30-55. Violations.**

(a) Any person violating any of the provisions of this article may be cited and required to appear before the court with jurisdiction over violations of city ordinances, including any person engaging in business within the city without having first obtained a business tax registration and paid in full for it, if not exempt from the fee for registration, shall be subject to the imposition of a fine The imposition of any judicially imposed fines or court costs or other punishment and shall be responsible for shall not relieve the taxpayer from liability for the payment of all taxes, penalties and interest which are past due. This section shall not authorize the issuance of citations where another section of this article excuses compliance from a particular requirement.

(b) Any person required by the business tax ordinance to register and to pay a business tax or to register with the business tax division, and who fails to do so in the manner provided by this article, shall also be liable to have the tax or any fine fees, penalties and interest collected by the issuance of execution by the revenue collection administrator, ex officio marshal or deputy pursuant to O.C.G.A. § 48-13-26. For the purpose of administering this section and for the purpose of enforcing the provisions of this article, a person who is an employee in apparent authority at the location where the business is registered or who is an agent acting in a capacity of apparent authority may be served with any notices and/or citations directed to the taxpayer. shall be joint and severally liable for the payment of all fines, taxes, penalties and interest which are past due. This section further authorizes collection of the tax and any fees, penalties and interest by the issuance of execution by the revenue collection administrator, ex officio marshal or deputy pursuant to O.C.G.A. § 48-13-26 against those delinquent taxpayers without any requirement that citations be issued.

(c) Any person who registers with the business tax division as a nonprofit organization, and is exempted from payment of business taxes, regulatory fees, and administrative fees pursuant to O.C.G.A. § 48-13-13(5), and who is determined by the chief financial officer not to qualify for the exemption provided for nonprofit organizations by O.C.G.A. § 48-13-13(5), shall be subject to the imposition of a fine may be cited for violation of this ordinance and shall be responsible for the payment of all taxes, penalties and interest which are past due. For the purpose of administering this section and for the purpose of enforcing the provisions of this article, a person who is an employee in apparent authority at the location where the business is registered or who is an agent acting in a capacity of apparent authority may be served with any notices and/or



~~citations directed to the taxpayer shall be joint and severally liable for the payment of all fines, taxes, penalties and interest which are past due.~~

(d) Compliance with this article shall not be a precondition to the practice of any profession licensed by the state. The sole purpose for the imposition of all fines, penalties and interest provided by this article is to support and enhance the collection of the taxes levied by this article.

#### **Sec. 30-56. Effect of article upon previous ordinance.**

The outstanding liabilities under prior ordinances shall continue and remain in force until such tax, fee, ~~or~~ assessment, penalty or interest shall be fully paid.

#### **Sec. 30-57. Duties of chief financial officer.**

The chief financial officer shall, among other duties:

- (1) Prepare and provide the necessary forms for the registration of a business, and for the submission of required information as may be necessary to properly administer and enforce this article;
- (2) Issue to each person, for whom it is required, a registration certificate within a reasonable time after the payment of the business tax assessed and levied in this article; provided, however, where under other ordinances of the city, permits, certifications and compliance with the enumerated conditions are required for the operation of the business, the chief financial officer shall not issue the business registration certificate until the applicant exhibits to the chief financial officer those obtained permits, certifications and compliances. In those cases where an applicant has applied for necessary permits, certifications and compliances with enumerated conditions, and such applicant is permitted to operate a business while the application is pending, the chief financial officer may consider that provisional approval has been granted and issue a registration certificate; provided, however, that at least 60 days have elapsed since the applicant has made application for the required permits, certifications and compliances;
- (3) Issue executions for the collection of all outstanding taxes and fees and fines levied and assessed under the terms of this article, together with penalties and interest; the executions shall be collected in the manner provided by law for the collection of other taxes and fees due the city;
- (4) Determine if the accounting method used by a business for which a tax certificate is required under this article accurately reflects the taxable gross receipts of the business for the applicable calendar year, and to make whatever adjustments may be necessary to arrive at the accurate amount of taxable gross receipts for the period applicable;





- (5) Audit periodically the books and records of the businesses subject to the provisions of this article, and to require the submission of such additional information as may be necessary to correctly determine the amount of the tax due and to ensure its collection; and
- (6) Issue in any year without charge a certificate when an applicant exhibits to the chief financial officer such permits, certifications and compliances which, under the law of the state or the United States, would entitle the applicant to it.
- (7) Determine if the person who has declared for an exemption from the business tax, administrative fee and registration fee is entitled to such an exemption.

**Sec. 30-58. Authority of chief financial officer to make rules and regulations.**

The chief financial officer shall have the power and authority to make and publish reasonable rules and regulations not inconsistent with this article or other laws of the city and the state, or the constitution of this state or the United States, for the administration and enforcement of this article and the collection of the registration fees under this article.

**Sec. 30-59. Compliance investigators.**

Compliance investigators are authorized, when so designated by the chief financial officer, to conduct investigations in the manner provided elsewhere in this article. Compliance investigators shall take the oath required of special police officers and have the right to wear the badge worn by those police officers. Compliance investigators may cite individuals or persons for violation of this article but are not empowered to arrest any individual for any violation of this article, and, notwithstanding any authority to the contrary elsewhere in the Atlanta City Code of Ordinances, shall not arrest any individual for any violation of this article.

**Sec. 30-60. Exceptions to article.**

(a) *Generally.* The following businesses are not covered by the provisions of this article, but may be assessed an occupation tax or other type of tax pursuant to the provisions of other general laws of the state or by local law:

- (1) Those businesses regulated by the state public service commission.
- (2) Those electrical service businesses organized under O.C.G.A. tit. 46, ch. 3 (O.C.G.A. § 46-3-1 et seq.).
- (3) Any farm operation for the production from or on the land of agricultural products, but not including agribusiness.
- (4) Cooperative marketing associations governed by O.C.G.A. § 2-10-105.
- (5) Insurance companies governed by O.C.G.A. § 33-8-8 et seq.



- (6) Motor common carriers governed by O.C.G.A. § 46-7-15.
- (7) Those businesses governed by O.C.G.A. § 48-5-355: Businesses that purchase carload lots of guano, meats, meals, flour, bran, cottonseed or cottonseed meal and hulls.
- (8) Agricultural products and livestock raised in the state governed by O.C.G.A. § 48-5-356.
- (9) Depository financial institutions governed by O.C.G.A. § 48-6-93.
- (10) Facilities operated by a charitable trust governed by O.C.G.A. § 48-13-55.
- (11) Sales of alcoholic beverages.

(b) *Exemption for state and local authorities and nonprofit organizations.* Pursuant to O.C.G.A. § 48-13-13(5), no occupation tax, regulatory fee or administrative fee is levied on any state or local authority or nonprofit organization as defined in this article.

(c) *Performance.* The fee per performance held in a theater, stadium, room, open space or any other place shall be as follows:

Spectator Capacity	Fee per Performance
0 to 500	\$ 35.00
500 to 2,500	\$100.00
2,500 to 7,500	\$200.00
7,500 to 15,000	\$350.00
Over 15,000	\$500.00

#### **Sec. 30-61. Determination of amount.**

The occupation tax amount shall be determined by the sum of three components:

- (1) A nonrefundable annual administrative fee of \$75.00.
- (2) An appropriate tax ~~rate~~ amount determined by tax rates in classes that are associated with standard industrial classifications and profitability ratios. These tax rates are in section 30-62. The tax classes are in Appendix I to the ordinance from which this section is derived. The practitioners of professions listed in Sec. 30-63 shall determine their tax as set forth in said section.
- (3) A per employee component which shall be imposed and shall become effective as provided in section 30-62.

#### **Sec. 30-62. Administrative fee amounts; tax rate structure.**



(a) A nonprorated, nonrefundable administrative fee of \$75.00 shall be required on all business and occupation tax accounts except for the businesses of those persons who are not required to pay the business or occupation tax for the initial startup, renewal, or reopening of those accounts. The administrative fee can only approximate the reasonable cost of handling and processing the occupation tax, return or application.

(b) Gross receipts of the business or practitioner in combination with the profitability ratio for the type of business, profession or occupation as measured by nationwide averages derived from statistics, classifications or other information published by the U.S. Office of Management and Budget, the U.S. Internal Revenue Service or successor agencies of the United States.

(c) The tax rate for all parts of 1999 after the effective date of this ordinance, and or each year thereafter, for each business, trade, profession or occupation shall be as follows:

<u>Tax</u>	<u>Flat Tax</u>	<u>Tax Rate</u>
<u>Class</u>	<u>on Gross</u>	<u>per \$1,000</u>
	<u>Receipts of</u>	<u>on Gross Receipts</u>
	<u>\$10,000 or less</u>	<u>above \$10,000</u>
<hr/>		
<u>1</u>	<u>\$50.00</u>	<u>0.0060</u>
<u>2</u>	<u>\$50.00</u>	<u>0.0075</u>
<u>3</u>	<u>\$50.00</u>	<u>0.0085</u>
<u>4</u>	<u>\$50.00</u>	<u>0.0110</u>
<u>5</u>	<u>\$50.00</u>	<u>0.0140</u>
<u>6</u>	<u>\$50.00</u>	<u>0.0165</u>
<u>7</u>	<u>\$50.00</u>	<u>0.0190</u>
<u>8</u>	<u>\$50.00</u>	<u>0.0215</u>
<hr/>		
<u>Tax</u>	<u>Flat Rate \$0-\$10,000</u>	<u>Tax Rate per \$1,000</u>
<u>Class</u>		
<u>1</u>	<u>\$50.00 plus</u>	<u>0.60</u>
<u>2</u>	<u>\$50.00 plus</u>	<u>0.75</u>



3	\$50.00 plus	0.85
4	\$50.00 plus	1.10
5	\$50.00 plus	1.40
6	\$50.00 plus	1.65
7	\$50.00 plus	1.90
8	\$50.00 plus	2.15

- (1) The tax on gross receipts shall be calculated by the application of the flat rate to the first \$10,000 of gross receipts and the application of the tax rate to all additional receipts above \$10,000.
- (2) No business is required to pay taxes on any gross receipts in excess of \$100,000,000.
- (3) Each business, not otherwise exempt from the payment of business or occupation taxes, and that has more than one employee shall pay an additional component as a part of its business or occupation tax in the amount of \$15.00 for each and every additional employee in excess of one. The per employee component specified above for those employees who work less than a full year may be prorated under rules and regulations promulgated by the chief financial officer or his or her designee.
- (d) No business or practitioner shall be required to pay more than one occupation tax for each of its locations.
- (e) No occupation tax will be required upon more than 100 percent of a business's gross receipts.
- (f) No occupation tax will be required on gross receipts on which such tax has been levied in other localities or states when proof of payment is provided to the city.
- (g) An occupation tax shall be required from real estate brokers, agents or companies based upon gross receipts of real estate transactions on property located within the city, regardless of the location of their business office.
- (h) An occupation tax shall not be levied in any other manner, on those affected businesses or practitioners except as described in this article.



- (i) Out-of-state businesses with no location in Georgia shall be assessed occupation taxes based on the gross receipts of the business as defined in O.C.G.A. § 14-13-7 which are reasonably attributed to sales or services in the state.

### **Sec. 30-63. Professional occupation tax.**

- (a) *Classification.* Practitioners of professions as described in O.C.G.A. § 48-13-9(c)(1)--(18) are as follows:

- (1) Lawyers.
- (2) Physicians.
- (3) Osteopaths.
- (4) Chiropractors.
- (5) Podiatrists.
- (6) Dentists.
- (7) Optometrists.
- (8) Psychologists.
- (9) Veterinarians.
- (10) Landscape architects.
- (11) Land surveyors.
- (12) Practitioners of physiotherapy.
- (13) Public accountants.
- (14) Embalmers.
- (15) Funeral directors.
- (16) Civil, mechanical, hydraulic or electrical engineers.
- (17) Architects.
- (18) Marriage and family therapists, social workers and professional counselors.
- (19) Dealers of motor vehicles, as defined in paragraph (1) of O.C.G.A. 10-1-622
- (20) Owners or operators of bona fide coin operated amusement machines, as defined in O.C.G.A. 48-17-1 and owners or operators of businesses where bona fide coin operated amusement machines are available for commercial use and play by the public, provided that such amusement machines have affixed current stickers showing payment of annual permit fees, in accordance with O.C.G.A. 48-17-9
- (21) Merchants or dealers as defined in O.C.G.A. 48-5-354 as to their deliveries to businesses and practitioners of professions and occupations in areas zoned for commercial use; and
- (22) Any other business, profession, or occupation for which state licensure or registration is required by state law, unless the state law regulating such business, profession, or occupation specifically allows for regulation by local governments



(b) ~~Payment of tax.~~ Determination of rate or amount of payment: At the time of the payment of the tax, ~~The the~~ professional practitioners listed in subsection (a) of this section shall elect as their entire occupation tax one of the following by February 15 of each year:

(1) The occupation tax based on gross receipts combined with profitability ratios and classes as set forth in section 30-62. In the the practitioner of the profession elects to calculate the occupation tax due based on gross receipts combined with profitability ratios and classes as set forth in section 30-62, a fee of seventy-five dollars is imposed to pay the cost to process the payment.

(2) A fee of \$400.00 per practitioner. Practitioners paying according to this subsection shall not be required to provide information to the local government relating to the gross receipts of the business or practitioner. The per-practitioner fee applies to each person in the business who qualifies as a practitioner under the state's regulatory guidelines and framework.

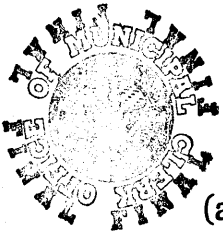
(c) Compliance with this article shall not be a precondition to the practice of any profession, listed herein, or licensed by the state. The sole purpose for the imposition of all fines, penalties and interest provided in this article is to support and enhance the collection of the taxes levied by this article. No administrative fee shall be charged to the practitioner of any profession listed in this section in the event that the practitioner requests to file any documents with the city prior to the time of payment of the tax. It shall be the responsibility of the taxpayer to inform the business tax division of their claim of entitlement to be treated as a practitioner of a profession under state law where the interpretation of this article in such a manner would entitle such taxpayer to a different application of the business tax ordinance or any rules and regulations promulgated by the chief financial officer.

(d) Practitioners of professions may be asked to provide information as to the location where they may be served with notices or citations issued in support of the enforcement of this article and upon the failure or refusal to do so, the city shall direct the notices or citations to the address listed with the appropriate state licensing agency.

### **Sec. 30-64. Separate businesses.**

Where a business is operated at more than one location or where the business includes more than one line, such business will pay an occupation tax in accordance with the prevailing taxing method and tax rate for the dominant line at each location.

### **Sec. 30-65. Registration required; renewal; transacting business when registration delinquent.**



(a) All businesses operating within the jurisdiction of the city shall be registered with the business tax division unless exempted by this article or by state law. Any business which anticipates commencing operation on or after January 1 of each year shall register before within thirty days of commencing such business and, if not exempt from the levy of a registration fee, shall pay said fee in accordance with a city-prescribed schedule. Each such registration shall be for the calendar year in which the registration was obtained unless otherwise specifically provided. Renewal application for a business registered in the previous year should be completed on or before February 15 of each year and payment of the occupation tax should be made by April 1 or by a city-prescribed schedule.

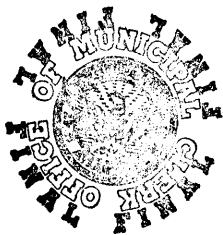
(b) Practitioners of professions or others who are required to obtain a state license or registration are not required to register with the city prior to beginning the practice of the profession for which they have been licensed or registered by the state. Practitioners of professions may be required to submit certain information in order to show compliance with zoning ordinances but such requirement shall only apply where a certificate of occupancy would otherwise be required of any other business and shall not prevent the practice of the profession at any other location already having a valid certificate of occupancy. Practitioners of professions are requested to provide certain information at the time of the initial payment of the tax for the purpose of the orderly administration of the business tax ordinance and the collection of the taxes levied by this article. Where the practitioner of the profession fails or refuses to provide information as to the location where they may be served with notices or citations issued in support of the enforcement of this article, or fails or refuses to keep such information current, the city shall direct the notices or citations to the address listed with the appropriate state licensing agency.

(c) There-As set forth in Sec. 30-69, there is imposed a penalty upon each person or other entity which fails to apply for and obtain an appropriate business registration and pay all required taxes and fees as provided in this article. Any person or other entity transacting or offering to transact business within the jurisdiction of the city any business, trade, profession or occupation without first having obtained such registration within the time required shall be subject to the payment of those fines, interest and penalties provided in section 30-69 in addition to the payment of all taxes, penalties and interest. This section shall not apply to the practitioners of professions listed in Sec. 30-63 or in O.C.G.A. § 48-13-9 as it may be from time to time amended.

#### **Sec. 30-66. Duration of registration.**

(a) The registration referred to in this article shall automatically expire on December 31 of the year of its issuance.

(b) Renewal applications for all business required to register shall be completed on or before February 15 of each year. The failure to renew registration by



the date required shall be a violation of this article, but such violation shall not prevent any business from being allowed to continue its operation.

(c) Practitioners of professions shall not be required to comply with this section.

### **Sec. 30-67. Fee for registration of business.**

The fee for the registration of each business on which a registration fee is levied, as required under section 30-65, shall be \$75.00, to be paid at the time of registering the business.

### **Sec. 30-68. Dominant line of business.**

The business registration of each business operated in the city shall identify the dominant line of business that the business conducts, and subordinate lines when appropriate.

### **Sec. 30-69. Penalties for failure to register, failure to make timely payment; interest upon unpaid taxes.**

~~(a) Any person failing to renew their registration on or before April 1, in any year, or in the case of a new business at the time of commencing operations, may be cited for violation of this article and upon conviction by the city court shall be subject to a penalty of ten percent of the estimated business tax or portion thereof then due or \$100.00, whichever is greater, for failure to so register.~~

~~(b) Any person failing to pay the estimated tax or the actual tax due under the terms of this article by the due date, or prescribed due dates established by the chief financial officer not in conflict with those set forth in this article, shall be subject to a penalty of ten percent of the tax or portion thereof then due for failure to pay the tax as provided under the terms of this article. All taxes or fees if not paid on or before the date due, as provided for in this article, shall be considered delinquent and shall, from the due date, bear interest at the rate of one percent per month or any portion thereof. The penalties and interest enumerated in this section shall apply independently of any judicially imposed fines.~~

(a) For those businesses required to register with the business tax division upon commencing operations in the city and which do not do so within thirty days of said, a late fee of \$500 shall be paid at the time of registration.

(b) Any business registered with the business tax division in a previous year and which fails to register by the date specified in this article shall pay a late fee of \$500 in addition to the tax due.





(c) Any occupation tax not paid by the due date shall be considered delinquent and bear interest at the rate of 1.5% per month. Any person who fails to pay the occupation tax for ninety (90) days from the due date shall be subject to and shall pay a penalty of 10 percent of the tax due in addition to the tax due and the accrued interest.

**Sec. 30-70. Reserved.**

**Sec. 30-71. Payment of tax; effect of transacting business when tax delinquent.**

~~Each such occupation tax shall be for the calendar year 1995 and succeeding calendar years thereafter unless otherwise specifically provided. The registration and occupation tax shall be payable January 1 of each year and shall, if not paid by April 1 of each year, be subject to penalties for delinquency as prescribed in this article. On any new profession, trade or calling begun in the city in 1995 or succeeding years thereafter, the registration and tax shall be delinquent if not obtained immediately upon beginning a business, and a ten percent penalty imposed. The tax registration provided for in this article shall be issued by the business tax division, and if any person whose duty it is to obtain a registration shall, after such registration or occupation tax becomes delinquent, transact or offer to transact, in the city, any of the kind of profession, trade or calling subject to this article without having first obtained such registration, such person shall be liable for the payment of all the taxes, fines, penalties and interest as provided in section 30-69. For the purpose of administering this section and for the purpose of enforcing the provisions of this article, a person who is an employee or agent acting in a capacity of apparent authority shall be joint and severally liable for the payment of all fines, taxes, penalties and interest which are past due.~~

(a) Each such occupation tax shall be for the calendar year 1995 and succeeding calendar years thereafter unless otherwise specifically provided.

(b) Any business that commences operations in the city is required to pay the occupation tax within thirty days of commencing operations and if such tax is not paid within ninety days of commencing operations, the business will be subject to penalties for delinquency on the unpaid tax as prescribed in this article. Thereafter, the occupation tax shall be due and payable January 1 of each year following and shall, if not paid by April 1 of that year, the business will be subject to penalties for delinquency on the unpaid tax as prescribed in this article.

(c) Any person transacting or offering to transact business in the city shall be liable for the payment of the occupation tax, and for all penalties and interest as provided in section 30-69.



(d) For the purpose of administering this section and for the purpose of enforcing the provisions of this article, a person who is an employee or in apparent authority at the location where the business is registered or who is an agent acting in a capacity of apparent authority may be served with any notices and/or citations directed to the taxpayer.

(e) Practitioners of professions are requested to provide certain information at the time of the initial payment of the tax for the purpose of the orderly administration of the business tax ordinance and the collection of the taxes levied by this article. Where the practitioner of the profession fails or refuses to provide information as to the location where they may be served with notices or citations issued in support of the enforcement of this article, or fails or refuses to keep such information current, the city shall direct the notices or citations to the address listed with the appropriate state licensing agency and shall consider the refusal of the practitioner to be consent to this method of service.

#### **Sec. 30-72. Casual and isolated activity.**

Nothing contained in this article shall be interpreted as to require any person who may engage in casual or isolated activity and commercial transactions involving personal assets and not the principal occupation of the individual to obtain a business tax registration and pay a tax therefor.

#### **Sec. 30-73. Refunds.**

(a) If a business ceases operation within a year for which an occupation tax has been paid or credited, the tax shall be refundable, upon request, if, after a final return is filed and after the actual tax liability is calculated, the business tax credited exceeds that liability.

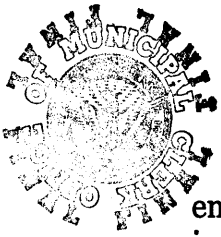
(b) Taxes are also refundable upon written request after a valid amendment is accepted and the business tax credited exceeds the tax liability.

#### **Sec. 30-74. Change of address.**

Any person required to register with the business tax division and who changes the place of operation moving from one location to another shall notify the chief financial officer of the move and the new address in writing on a form provided by the chief financial officer no later than the day of moving. The same business certificate will be valid at the new location if the new location conforms to the zoning regulations of the city.

#### **Sec. 30-75. Returns confidential.**

Except in the case of judicial proceedings or other proceedings necessary to collect the occupation tax levied in this article, it shall be unlawful for any officer,



employee, agent or clerk of the city or any other person to divulge or make known in any manner the amount of gross receipts or any particulars set forth or disclosed in any occupation tax return required under this article. All contents of the return pertaining to the determination of the amount of business tax shall be confidential and open only to the officials, employees, agents or clerks of the city using such returns for the purpose of this occupation tax levy and the collection of the tax. Independent auditors or bookkeepers employed by the city shall be classed as employees. Nothing in this article shall be construed to prohibit the publication by the city officials of statistics, so classified as to prevent the identification of particular reports or returns and items thereof, the inspection of the records or returns and items thereof or the inspection of the records by duly qualified employees of the tax departments of the state, the United States and other local governments.

#### **Sec. 30-76. Certificate to be available for inspection.**

The certificate issued for any business location shall be available for inspection at the address listed on the certificate and shall be displayed to any authorized enforcement officer of the city when so requested. This requirement may also be satisfied by posting the certificate in some conspicuous place at the address listed on the certificate. This section does not apply to practitioners of professions listed in section 30-63.

#### **Sec. 30-77. Paying tax of business with no location in state.**

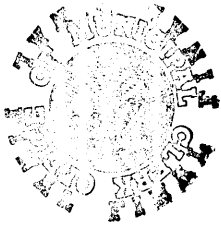
Registration and assessment of an occupation tax is imposed on those businesses and practitioners of professions with no location or office in the state if the business's largest dollar volume of business in the state is in the city, and the business or practitioner:

- (1) Has one or more employees or agents who exert substantial efforts within the jurisdiction of the city for the purpose of soliciting business or serving customers or clients; or
- (2) Owns personal or real property which generates income and which is located within the jurisdiction of the city.

#### **Sec. 30-78. Number of businesses considered to be operating in city.**

Where a person conducts business at more than one fixed location, each location shall be considered a separate business for the purpose of the business tax. When a practitioner of a profession operates a business at a separate location which is different than the practice of one of the professions listed in Section 30-63, such business shall be considered a separate business.

#### **Sec. 30-79. Practitioners exclusively practicing for a government.**



Any practitioner whose office is maintained by and who is employed in practice exclusively by the United States, the state, a municipality or county of the state or instrumentalities thereof shall not be required to pay an occupation tax for that practice.

**Sec. 30-80. Allocation of gross receipts of business with multiple intrastate or interstate locations.**

(a) For those businesses that have multiple locations inside and outside of the city where the gross receipts can be allocated to each location, the gross receipts used to determine the business tax assessed will be those gross receipts attributed to each city location. Where the dollar amount of gross receipts attributed locally cannot be determined in those businesses with multiple locations, the total gross receipts will be divided by the total number of locations in the city and elsewhere and allotted to those locations. Upon request, the business or practitioner with a location or office situated in more than one jurisdiction shall provide to the city the following:

- (1) Financial information necessary to allocate the gross receipts of the business or practitioner; and
  - (2) Information relating to the allocation of the business's or practitioner's gross receipts by other local governments.
- (b) Where the business has locations outside of the city and taxation is levied in accordance with a criteria other than gross receipts by the other local governments, the city shall not assess more than the allotted share of gross receipts for the location within the city.

**Sec. 30-81. Tax inapplicable where prohibited by law or provided for pursuant to other existing law.**

An occupation tax shall not apply to the gross receipts of any part of a business where such levy is prohibited or exempted by the laws of the state or of the United States.

**Sec. 30-82. Taxes levied on business to be transacted during current calendar year.**

(a) For convenience of both the city and the taxpayer, each business subject to the occupation tax levied in section 30-52 shall, on or before the dates set forth in this section, file with the business tax division the return specifically provided in this section for the calendar year. This return shall be used as the basis for making estimated payments on the occupation tax for the current calendar year. The actual and final amount of tax levied for business transacted in the current calendar year shall be paid in accordance with a renewal or return to be made after the end of the year, in accordance with the procedure set forth in this section. The owner, proprietor, manager or secretary officer of the business subject to such occupation tax of the current calendar year shall, at the end of the preceding year, or before February 15 of the current calendar year, file with the



business tax division of the city, on a form furnished by such officer, a signed return setting forth the amount of gross receipts of such business for the entire preceding calendar year. This return, with its depicted gross receipts, will be used to determine the final tax for the calendar year just completed and to estimate the gross receipts, and therefore the occupation tax, for the current year.

(b) Where a business subject to the occupation tax for the calendar year has been conducted for only a part of the preceding year, the amount of gross receipts for such part shall be reported in such return. Such figure shall be appropriately prorated and used as the estimate of the gross receipts of the business for the current calendar year in establishing the business tax liability.

#### **Sec. 30-83. Overpayment or underpayment of tax.**

(a) If the amount of the occupation tax for the preceding year based on the return provided for in this section and on the rate of such tax provided for in this article is less than the amount of occupation tax theretofore paid by such business based on the estimate filed pursuant to section 30-82, the difference in such amount shall be due and payable by the taxpayer to the city on April 1 or a city-prescribed date of the current year and delinquent if not paid on or before such date.

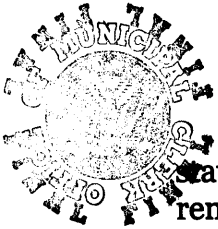
(b) If the amount of the occupation tax for the preceding year based on the return provided for in this section and on the rate of such tax provided for in this article exceeds the amount of occupation tax theretofore paid by such business based on the estimate filed pursuant to section 30-82, the difference in such amount shall be refundable, upon written request, by the city to the taxpayer; or, if such business continues to be conducted in the city during the current year, such difference in amount may be credited by the city on the amount of occupation tax to be paid to the city by such business for the calendar year. This election is to be taken by the city.

#### **Sec. 30-84. Public hearing before tax increase.**

After January 1, 1996, the city council shall conduct at least one public hearing before adopting any ordinance or resolution which will increase the rate of occupation tax as set forth in this article.

#### **Sec. 30-85. Copy of latest state tax return or other appropriate documentation of gross receipts required for tax certificate; locations and records open to inspection; record retention requirements.**

(a) Each business, trade, profession, or occupation required to pay a tax based upon gross receipts shall be required to provide the business tax division with a copy of the entity's latest state tax return, or other appropriate documentation of



statewide gross receipts that is acceptable to the chief financial officer, upon the renewal, adjustment or final application for a tax certificate.

(b) Upon demand by the chief financial officer or his or her designee, it shall be the duty of any person who is required to obtain a business license from the city to open all portions of any location, where business is conducted inside the city, for the purpose of enabling the chief financial officer or his or her designee to ascertain and gain information necessary for the determination of the proper classification of any business for business or occupation tax purposes.

(c) Upon demand by the chief financial officer or his or her designee, it shall be the duty of any person, who is required to obtain a business license from the city, to produce, furnish or make available, during regular business hours at a location inside the city, all books of account, invoices, papers, reports and memoranda containing entries showing amount of purchases, sales receipts, inventory and other information, from which the determination of the proper classification of any business for the previous three calendar years may be determined for business or occupation tax purposes or from which the amount of business or occupation tax for the previous three calendar years may be determined or verified, regardless of whether such records are maintained outside of the city. Such records may include but are not limited to bank deposit books, bank statements, copies of sales tax reports made to the state of Georgia, and copies of state and federal income tax returns.

(d) Any person who is required to obtain a business license from the city and who is required to produce, furnish or make available, during regular business hours at a location inside the city, any documents or records described in this article shall keep and preserve all such documents or records for a period which includes the three previous calendar years.

(e) It shall be a violation of this article for any person to fail or refuse to perform any duty herein imposed or to obstruct or interfere with the chief financial officer or his or her designee in the performance of their duties or to refuse to produce, furnish or make available any documents or records described in this article. Any person violating this section may be cited by the compliance investigators and upon conviction by the city court shall be subject to a penalty of ten percent of the estimated business tax or portion thereof then due or \$500.00, whichever is greater. For the purpose of administering this section and for the purpose of enforcing the provisions of this article, a person who is an employee or agent acting in a capacity of apparent authority shall be joint and severally liable for the payment of all fines, taxes, penalties and interest which are past due.

**Sec. 30-86. Appeal of decisions of the chief financial officer; Claims for refunds.**

(a) Any decision of the chief financial officer under this article, including without limitation, such decisions as to entitlement to exemptions, profitability classifications, methods of accounting, the imposition of penalties and interest, and the amount of tax



due, may be appealed, in writing by any taxpayer. Such appeal shall be filed in writing with the business tax division and no special form is required except that the taxpayer set forth sufficient information for the determination of the appeal. The taxpayer shall be responsible to set forth the information, which the taxpayer considers pertinent to the appeal and the chief financial officer may consider the appeal based only on the information submitted by the taxpayer. The chief financial officer shall act on such appeals only when submitted by the taxpayer, an attorney acting directly on the behalf of a taxpayer or from a person who presents a signed and notarized power of attorney that they are authorized to represent the taxpayer.

- (i) The filing of an appeal as to the amount of tax due shall not act to relieve the taxpayer of the requirement to pay the amount of tax levied or to prevent the imposition of penalties and interest. The filing of an appeal of the amount of tax calculated to be due follows a separate procedure from a claim for refund and taxpayers are hereby put on notice that the filing of an appeal of the determination of the amount of tax due is not a claim for refund and does not preserve any rights of the taxpayer with respect the time limits within which refunds must be claimed under state law.
- (ii) The chief financial officer shall make a written determination on all appeals, except for claims for refunds, within six months of its filing. Other than a refund claim, any appeal, not acted on within six months is deemed denied.
- (iii) An appeal of a decision of the chief financial officer as to decisions made under this section shall be to the Superior Court of Fulton County by writ of certiorari wherein the errors complained of are plainly and distinctly set forth.
- (iv) Any appeal concerning the issuance of executions shall be governed in the manner set forth by state law.

(b) Any claim for refund of any tax provided for in this article shall be subject to the provisions set forth in O.C.G.A. § 48-5-380 as it exists now or as it may be amended.

- (i) Any claim for refund of any tax provided for in this article shall be in writing and shall be addressed, by the taxpayer, to the chief financial officer, who is herein designated by the city council to accept claims for refunds. The claim shall identify the taxpayer, specify the business location, the tax years for which refunds are claimed and the dates of payment for which the refund is claimed. The claim shall also include a summary statement of the grounds on which the taxpayer relies and shall specify the tax years and dates of payments to which such grounds apply. In the event that the taxpayer desires a conference or hearing before the chief financial officer in connection with any claim for refund, the taxpayer shall so specify in writing at the time of filing



the claim. The chief financial officer shall grant a conference at a time of his/her convenience except in those cases where the city council must hear the claim.

- (ii) The date of filing shall be the date that the claim for refund is received by the chief financial officer. In any case where the chief financial officer does not make a refund for any or all of the amount claimed, or cause the refund claim to appear on the agenda of the committee with purview over the department of finance, within one year of the date that the claim is received, the taxpayer may consider that the claim is denied. No claim shall be deemed approved by the failure of the chief financial officer to make a decision on the claim or to failure of the claim to appear on the agenda of the committee with purview over the department of finance. The chief financial officer and the taxpayer may agree in writing to extend the one year period for processing of the claim and such action shall stay the presumption of denial until the written agreement expires.
- (iii) In cases where there is an obvious clerical error, and or the amount to be refunded is \$5,000.00 or less, the chief financial officer is authorized to approve any refund and may pay the refund without further authorization of the city council.
- (iv) In cases where there is no obvious clerical error or the amount to be refunded exceeds \$5,000.00, the governing authority shall approve or disapprove the claim through a resolution which shall also be considered at least once at a meeting of the committee with purview over the department of finance, prior to a final vote. In such cases where the taxpayer has requested a hearing before the governing authority, such hearing shall take place at said committee meeting.

(c) Further proceedings concerning the denial of refund claims shall be as provided in O.C.G.A. § 48-5-380 as it may be from time to time amended.

~~Sec 30-86 30-100. Reserved. Sec 30-87 - 30-89. Reserved.~~

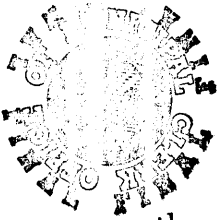
#### Division 1A Attorneys

#### Sec. 30-90. Effective Date; Repeal of Prior Levy; Levy;

(a) For all years including and after the calendar year 2004, Division 1A shall apply to the occupation tax imposed on attorneys engaged in the practice of law in the jurisdiction of the city. Where any part of this article is in conflict with the language of this division, the more specific language of this division shall control.

(b) The occupation tax levied by Sec. 30-52 is hereby repealed only as it is applied to the professional classification set forth in Sec. 30-63(a)(1) ("Lawyers") and replaced by





the occupation tax imposed under this Division 1A. The repeal set forth in this subsection shall not act to repeal the general levy of Sec. 30-52, on any other occupations, businesses, trades and professions and the general levy authorized therein, except as it is applied to the professional classification set forth in Sec. 30-63(a)(1) ("Lawyers"), is specifically preserved and not repealed.

(c) As of the effective date of this ordinance, an occupation tax is imposed on the professional classification set forth in Sec. 30-63(a)(1) ("Lawyers") for income earned within the jurisdiction of the city.

(d) Any attorney who paid an occupation tax for any previous year under the levy imposed by Sec. 30-52 may at his or her option instruct the business tax division to apply that payment to the tax imposed by this Division 1A.

#### **Sec. 30-92. Attorneys not required to register.**

(a) Notwithstanding any language to the contrary elsewhere in this article, an attorney shall not be required to register with the business tax division. Information reported with any occupation tax payment may be retained by the business tax division and used for those purposes allowed by applicable law.

(b) Notwithstanding any language to the contrary elsewhere in this article, an attorney shall not be required to obtain, display or maintain any city issued certificate showing that any payment or information has been submitted to the business tax division.

(c) For the purposes of enforcement of the zoning ordinance, attorneys may be asked by to submit notarized affidavits or other written information concerning the business or profession carried on at a location and the dates of operation when applying for a certificate of occupancy for new construction or renovation. Such affidavits or documents shall be used for the purposes of determining compliance with the zoning ordinance and shall not prevent the practice of the profession of law at any other location which has a valid certificate of occupancy.

(d) A refusal to submit a notarized affidavit or other written information stating whether a person engages in the practice of law at a particular location or stating the dates of operation at a location shall not be a violation of this article and shall not prevent an attorney from practicing law in the city. The chief financial officer shall document this refusal for use in any later proceeding. Where an attorney fails or refuses to provide information as to the location where they may be served with notices or citations issued in support of the enforcement of this article, the city shall direct the notices or citations to the address listed with the State Bar of Georgia and shall consider the failure or refusal of the attorney to provide current address information to be consent to this method of service.

#### **Sec. 30-93. Calculation of amount of tax.**



An attorney who practices law in the jurisdiction of the city shall at their option have their tax rate determined, but not the time of payment, in the manner set forth in Sec. 30-63(b)(1) and Sec. 30-63(b)(2).

**Sec. 30-94. Date when taxes are due; date when taxes become delinquent; amount of interest and penalties.**

(a) Notwithstanding any language to the contrary elsewhere in this article, an attorney shall not be required to pay the occupation tax on the income generated from the practice of law in any calendar year beginning with and including the year 2004 year until April 1 of the year following. The tax may be may be paid in person at the business tax division or by mailing the tax to the business tax division. Any tax payment made by mail shall include the name and address of the person or law firm paying the tax and the name of each attorney whose tax is being paid, so that the business tax division may process the payment. An attorney who pays the occupation tax on their own behalf shall include the name of the law firm with which they practice, if any. Any tax paid pursuant to the option of Sec. 30-63(b)(1) shall include a written submission containing sufficient information to enable the chief financial officer to determine the accuracy of the taxpayer's calculation.

(b) Taxes due from attorneys shall not be considered delinquent until June 1. An attorney who does not pay the tax prior to June 1 shall incur a penalty of ten percent of the tax due. Any taxes not paid by the due date shall accrue interest at the rate of 1.5% per month.

**Sec. 30-95. Option of the chief financial officer to send bills.**

(a) Notwithstanding any language to the contrary elsewhere in this article, the chief financial officer may choose to send bills to attorneys who list their address with the State Bar of Georgia as being located in the City of Atlanta, including those attorneys who list only post office boxes as their addresses.

(b) An attorney who prepares and signs a notarized affidavit that they did not practice law within the jurisdiction of the city during some part of the tax year for which the tax bill was generated may have their bill adjusted for the time period stated in the affidavit when such attorney did not maintain an office within the jurisdiction of the city and/or states such other reasons why the occupation tax should be adjusted. Such adjustment shall not be made for those attorneys who elect to pay the \$400.00 per practitioner fee as set forth in Sec. 30-63(b)(2) unless the affidavit states that the attorney did not practice law in the jurisdiction of the city at any time during the year for which the tax bill was generated. The chief financial officer is authorized to inquire whether such affidavit matches the information maintained by the State Bar of Georgia in connection with the directives of State Bar Rule 1-207 and/or to take such other steps as deemed necessary to determine the accuracy of the affidavit. The submission of an affidavit requesting adjustment shall not act to prevent the imposition of penalties and interest should the chief financial officer deny the request for adjustment.



The option of the chief financial officer to send bills shall not relieve attorneys from the obligation to pay any tax due for any calendar year including 2004 by April 1 of the following year.

(d) The chief financial officer may include in any bills, the unpaid tax balance from other years, including all fees and penalties and the amount of interest, which has accrued on any unpaid tax liability. The failure of the chief financial officer to list any unpaid balance on any bill shall not operate to relieve the taxpayer from liability for any balance due.

(e) It shall be a violation of this section for any attorney to willfully and intentionally misrepresent a material fact in an affidavit to avoid the payment of the occupation tax imposed by this division, or the occupation tax imposed by Sec. 30-52, and the sole enforcement action to be taken is set forth as follows:

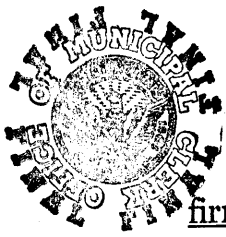
(i) When the chief financial officer has reason to believe that an attorney has willfully and intentionally misrepresented a material fact in any affidavit submitted to business tax division for the purposes of avoiding full payment of the occupation tax, he or she shall consult with the city attorney to determine whether such conduct should be referred to the State Bar of Georgia for investigation as to whether a violation of the Georgia Rules of Professional Conduct has occurred.

#### **Sec. 30-96. Tax execution imposed for failure to pay the occupation tax**

An attorney required to pay the occupation tax and who fails to do so in the manner provided by this article, shall be liable to have the tax and any penalties and interest collected by the issuance of execution by the revenue collection administrator, ex officio marshal or deputy pursuant to O.C.G.A. § 48-13-26. Further proceedings concerning the execution procedure employed in the enforcement of this section shall be as provided by state law. Notwithstanding any language to the contrary in other sections of this article, the use of tax executions and the reporting of any alleged mis-representations as set forth in Sec. 30-95 shall be the sole mechanism for enforcement of the occupation tax levy against attorneys.

#### **Sec. 30-97. Payment of city funds to attorneys or law firms employing attorneys not in compliance with the requirements of this division is not authorized; occupation tax payments to be considered in employment of attorneys by the city.**

(a) No individual attorney, or law firm employing such attorney, who is delinquent in the payment of the occupation tax authorized by this article, shall be paid for any legal work in which they have represented the city in any capacity, until any outstanding occupation tax liability, including all penalties and interest, has been paid in full. If the chief financial officer believes that an individual attorney, or any attorneys employed by a law firm, seeking compensation for legal services performed for the city, is/are not in full compliance with this division, he or she shall notify the individual attorney, or law



firm and present a bill for the amount due. After payment of any outstanding occupation tax liability, the individual attorney, or law firm may be paid for the legal work in which they have represented the city.

(b) The chief financial officer and/or the city attorney are authorized to verify that any individual attorney, or the attorneys employed by any law firm, seeking to represent the city, including without limitation, acting as bond counsel, is/are current in their occupation tax payments prior to their employment. Because of the legal and/or fiduciary relationships, which such representation of the city may create, the chief financial officer and/or the city attorney are authorized to consider compliance with the occupation tax ordinance by the individual attorneys and/or the attorneys employed by the law firm, prior to any employment by the city.

**Sec. 30-98 Appeals and refund claims.**

Appeals of decisions of the chief financial officer and/or refund claims under this division shall be as provided in Sec. 30-86.

**Sec. 30-99-30-100 Reserved.**



## **EXHIBIT - B**



## ARTICLE III. OCCUPATION TAX

### DIVISION 1. GENERALLY

#### Sec. 30-51. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Administrative fee* means a component of an occupation tax which approximates the reasonable cost of handling and processing the occupation tax. For those businesses required to register with the city, the payment of the administrative fee shall also satisfy any requirement to pay the registration fee

*Business* shall maintain its ordinary and customary usage according to context but also may be used to generally identify a person or entity carrying on a trade, occupation, profession, or other commercial or non-commercial enterprise. *Business tax* means the same as *Occupation tax*.

*Business tax division* means that part of the department of finance made responsible for assisting the chief financial officer with the administration of the occupation tax and according to context may also mean the location where the operations of the business tax division are carried out.

*Certificate* means a document issued to the person after registration of a business and the full payment of any required occupation tax.

*Chief financial officer* includes the chief financial officer's designee.

*Dominant line* means the type of business, within a multiple-line business, from which the greatest amount of income is derived.

*Employee* means an individual whose work is performed under the direction and supervision of the employer and whose employer withholds FICA, federal income tax, or state income tax from such individual's compensation or whose employer issues to such individual for purposes of documenting compensation a form I.R.S. W-2 but not an I.R.S. 1009.

*Gross receipts.*

(1) *Gross receipts* means the total revenue of the business or practitioner for the period, including, without limitation, the following:

- a. Total income without deduction for the cost of goods or expenses incurred;
- b. Gain from trading in stocks, bonds, capital assets or instruments of indebtedness;



- c. Proceeds from commissions on the sale of property, goods or services;
- d. Proceeds from fees for services rendered; and
- e. Proceeds from rent, interest, royalty or dividend income.

(2) *Gross receipts* shall not include the following:

- a. Sales, use or excise tax;
- b. Sales returns, allowances and discounts;
- c. Interorganizational sales or transfers between or among the units of a parent-subsidiary controlled group of corporations as defined by 26 USC 1563(a)(1), or between or among the units of a brother-sister controlled group of corporations as defined by 26 USC 1563(a)(2);
- d. Payments made to a subcontractor or an independent agent; and
- e. Governmental and foundation grants, charitable contributions or the interest income derived from such funds received by a nonprofit organization which employs salaried practitioners otherwise covered by this article, if such funds constitute 80 percent or more of the organization's receipts.
- f. Proceeds from sales of goods which are delivered to or received by customers who are outside of the state at the time of delivery or receipt.

*Location or office* shall not include a temporary work site which serves a single customer or project.

*Nonprofit organization* shall mean a bona fide nonprofit civic, educational or charitable organization.

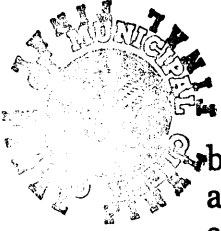
*Occupation tax* means a tax levied on persons for engaging in an occupation, profession or business for revenue raising purposes.

*Person* means and includes sole proprietors, corporations, partnerships, nonprofits or any other form of business organization.

*Practitioner of profession or occupation* is one who is by state law required to obtain a state license pursuant to the law regulating such profession or occupation. Such term shall not include a practitioner who is an employee of a business, if the business pays an occupation tax.

*Registration* means the application form with information about a business or the act of completing the form. As a matter of administrative convenience, registration forms may also be used for the purpose of compiling such information as deemed necessary to confirm that the type of business to be operated is permitted by the zoning code at the location where the business is to be conducted and to sufficiently identify the location of the business for the purposes of enforcement of this division.

*Regulatory fees* mean payments, whether designated as license fees, permit fees or by another name, which are required by a local government as an exercise of its police power and as a part of or an aid to regulation of an occupation, profession or



business. The amount of a regulatory fee shall approximate the reasonable cost of the actual regulatory activity performed by the city. A regulatory fee may not include an administrative fee. Development impact fees as defined by O.C.G.A. § 36-71-2(8) or other costs or conditions of zoning or land development are not regulatory fees.

*Return* means all documents or forms filed with the payment of an occupation tax and/or those documents or forms, which are used to determine any underpayment or overpayment on taxes paid in any previous year.

*Taxpayer* means the person from whom the occupation tax, imposed under this article, is due or was collected.

*Within the jurisdiction of the city* shall mean and include any area within the corporate limits of the City of Atlanta as the same currently exist or as they may be changed from time to time, and any area within the boundaries of the William B. Hartsfield Atlanta International Airport as the same currently exist or as they may be changed from time to time.

#### **Sec. 30-52. Levy.**

As provided in this article and in accordance with state law, an occupation tax is hereby levied and assessed on each person engaged in any business, trade, profession or occupation located within the jurisdiction of the city and on each person whose business, trade, profession or occupation, is carried on, operated or performed within the jurisdiction of city; except that no occupation tax, regulatory fee or administrative fee is levied on any state or local authority or nonprofit organization. In the case of an out-of-state business with no location in Georgia, which exerts substantial efforts within the state and city pursuant to O.C.G.A. § 48-13-7, an occupation tax shall be levied and assessed on such business, trade, profession or occupation.

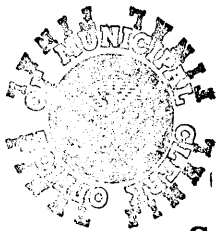
#### **Sec. 30-53. Purpose and scope of tax.**

The occupant tax levied in this article is for revenue purposes only and is not for regulatory purposes, nor is the payment of the tax made a condition precedent to the practice of any such profession, trade or calling. The occupation tax only applies to those businesses and occupations that are taxed by the local government pursuant to the pertinent general and/or local law and ordinance.

#### **Sec. 30-54. Administration.**

The chief financial officer shall administer and enforce this article for the levy, assessment and collection of license fees, occupation taxes, and any fees, interest and penalties imposed in this article except for those fines or court costs that are judicially imposed.





### **Sec. 30-55. Violations.**

(a) Any person violating any of the provisions of this article may be cited and required to appear before the court with jurisdiction over violations of city ordinances. The imposition of any judicially imposed fines or court costs or other punishment shall not relieve the taxpayer from liability for the payment of all taxes, penalties and interest which are past due. This section shall not authorize the issuance of citations where another section of this article excuses compliance from a particular requirement.

(b) Any person required to pay a business tax or to register with the business tax division, and who fails to do so in the manner provided by this article, shall also be liable to have the tax or any fees, penalties and interest collected by the issuance of execution by the revenue collection administrator, ex officio marshal or deputy pursuant to O.C.G.A. § 48-13-26. For the purpose of administering this section and for the purpose of enforcing the provisions of this article, a person who is an employee in apparent authority at the location where the business is registered or who is an agent acting in a capacity of apparent authority may be served with any notices and/or citations directed to the taxpayer. This section further authorizes collection of the tax and any fees, penalties and interest by the issuance of execution by the revenue collection administrator, ex officio marshal or deputy pursuant to O.C.G.A. § 48-13-26 against those delinquent taxpayers without any requirement that citations be issued.

(c) Any person who registers with the business tax division as a nonprofit organization, and is exempted from payment of business taxes, regulatory fees, and administrative fees pursuant to O.C.G.A. § 48-13-13(5), and who is determined by the chief financial officer not to qualify for the exemption provided for nonprofit organizations by O.C.G.A. § 48-13-13(5), may be cited for violation of this ordinance and shall be responsible for the payment of all taxes, penalties and interest which are past due. For the purpose of administering this section and for the purpose of enforcing the provisions of this article, a person who is an employee in apparent authority at the location where the business is registered or who is an agent acting in a capacity of apparent authority may be served with any notices and/or citations directed to the taxpayer..

(d) Compliance with this article shall not be a precondition to the practice of any profession licensed by the state. The sole purpose for the imposition of all fines, penalties and interest provided by this article is to support and enhance the collection of the taxes levied by this article.

### **Sec. 30-56. Effect of article upon previous ordinance.**

The outstanding liabilities under prior ordinances shall continue and remain in force until such tax, fee, assessment, penalty or interest shall be fully paid.



### **Sec. 30-57. Duties of chief financial officer.**

The chief financial officer shall, among other duties:

- (1) Prepare and provide the necessary forms for the registration of a business, and for the submission of required information as may be necessary to properly administer and enforce this article;
- (2) Issue to each person, for whom it is required, a registration certificate within a reasonable time after the payment of the business tax assessed and levied in this article; provided, however, where under other ordinances of the city, permits, certifications and compliance with the enumerated conditions are required for the operation of the business, the chief financial officer shall not issue the business registration certificate until the applicant exhibits to the chief financial officer those obtained permits, certifications and compliances. In those cases where an applicant has applied for necessary permits, certifications and compliances with enumerated conditions, and such applicant is permitted to operate a business while the application is pending, the chief financial officer may consider that provisional approval has been granted and issue a registration certificate; provided, however, that at least 60 days have elapsed since the applicant has made application for the required permits, certifications and compliances;
- (3) Issue executions for the collection of all outstanding taxes and fees levied and assessed under the terms of this article, together with penalties and interest; the executions shall be collected in the manner provided by law for the collection of other taxes and fees due the city;
- (4) Determine if the accounting method used by a business for which a tax certificate if required under this article accurately reflects the taxable gross receipts of the business for the applicable calendar year, and to make whatever adjustments may be necessary to arrive at the accurate amount of taxable gross receipts for the period applicable;
- (5) Audit periodically the books and records of the businesses subject to the provisions of this article, and to require the submission of such additional information as may be necessary to correctly determine the amount of the tax due and to ensure its collection; and
- (6) Issue in any year without charge a certificate when an applicant exhibits to the chief financial officer such permits, certifications and compliances which, under the law of the state or the United States, would entitle the applicant to it.
- (7) Determine if the person who has declared for an exemption from the business tax, administrative fee and registration fee is entitled to such an exemption.



**Sec. 30-58. Authority of chief financial officer to make rules and regulations.**

The chief financial officer shall have the power and authority to make and publish reasonable rules and regulations not inconsistent with this article or other laws of the city and the state, or the constitution of this state or the United States, for the administration and enforcement of this article and the collection of the registration fees under this article.

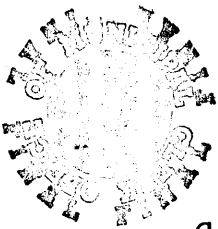
**Sec. 30-59. Compliance investigators.**

Compliance investigators are authorized, when so designated by the chief financial officer, to conduct investigations in the manner provided elsewhere in this article. Compliance investigators shall take the oath required of special police officers and have the right to wear the badge worn by those police officers. Compliance investigators may cite individuals or persons for violation of this article but are not empowered to arrest any individual for any violation of this article, and, notwithstanding any authority to the contrary elsewhere in the Atlanta City Code of Ordinances, shall not arrest any individual for any violation of this article.

**Sec. 30-60. Exceptions to article.**

(a) *Generally.* The following businesses are not covered by the provisions of this article, but may be assessed an occupation tax or other type of tax pursuant to the provisions of other general laws of the state or by local law:

- (1) Those businesses regulated by the state public service commission.
- (2) Those electrical service businesses organized under O.C.G.A. tit. 46, ch. 3 (O.C.G.A. § 46-3-1 et seq.).
- (3) Any farm operation for the production from or on the land of agricultural products, but not including agribusiness.
- (4) Cooperative marketing associations governed by O.C.G.A. § 2-10-105.
- (5) Insurance companies governed by O.C.G.A. § 33-8-8 et seq.
- (6) Motor common carriers governed by O.C.G.A. § 46-7-15.
- (7) Those businesses governed by O.C.G.A. § 48-5-355: Businesses that purchase carload lots of guano, meats, meals, flour, bran, cottonseed or cottonseed meal and hulls.
- (8) Agricultural products and livestock raised in the state governed by O.C.G.A. § 48-5-356.
- (9) Depository financial institutions governed by O.C.G.A. § 48-6-93.
- (10) Facilities operated by a charitable trust governed by O.C.G.A. § 48-13-55.
- (11) Sales of alcoholic beverages.



(b) *Exemption for state and local authorities and nonprofit organizations.* Pursuant to O.C.G.A. § 48-13-13(5), no occupation tax, regulatory fee or administrative fee is levied on any state or local authority or nonprofit organization as defined in this article.

(c) *Performance.* The fee per performance held in a theater, stadium, room, open space or any other place shall be as follows:

**Spectator Capacity    Fee per Performance**

0 to 500	\$ 35.00
500 to 2,500	\$100.00
2,500 to 7,500	\$200.00
7,500 to 15,000	\$350.00
Over 15,000	\$500.00

**Sec. 30-61. Determination of amount.**


The occupation tax amount shall be determined by the sum of three components:

- (1) A nonrefundable annual administrative fee of \$75.00.
- (2) An appropriate tax amount determined by tax rates in classes that are associated with standard industrial classifications and profitability ratios. These tax rates are in section 30-62. The tax classes are in Appendix I to the ordinance from which this section is derived. The practitioners of professions listed in Sec. 30-63 shall determine their tax as set forth in said section.
- (3) A per employee component which shall be imposed and shall become effective as provided in section 30-62.

**Sec. 30-62. Administrative fee amounts; tax rate structure.**

(a) A nonprorated, nonrefundable administrative fee of \$75.00 shall be required on all business and occupation tax accounts except for the businesses of those persons who are not required to pay the business or occupation tax for the initial startup, renewal, or reopening of those accounts. The administrative fee can only approximate the reasonable cost of handling and processing the occupation tax, return or application.

(b) Gross receipts of the business or practitioner in combination with the profitability ratio for the type of business, profession or occupation as measured



by nationwide averages derived from statistics, classifications or other information published by the U.S. Office of Management and Budget, the U.S. Internal Revenue Service or successor agencies of the United States.

(c) The tax rate for all parts of 1999 after the effective date of this ordinance, and or each year thereafter, for each business, trade, profession or occupation shall be as follows:

Tax Class	Flat Rate \$0-\$10,000	Tax Rate per \$1,000
1	\$50.00 plus	0.60
2	\$50.00 plus	0.75
3	\$50.00 plus	0.85
4	\$50.00 plus	1.10
5	\$50.00 plus	1.40
6	\$50.00 plus	1.65
7	\$50.00 plus	1.90
8	\$50.00 plus	2.15

(1) The tax on gross receipts shall be calculated by the application of the flat rate to the first \$10,000 of gross receipts and the application of the tax rate to all additional receipts above \$10,000.

(2) No business is required to pay taxes on any gross receipts in excess of \$100,000,000.

(3) Each business, not otherwise exempt from the payment of business or occupation taxes, and that has more than one employee shall pay an additional component as a part of its business or occupation tax in the amount of \$15.00 for each and every additional employee in excess of one. The per employee component specified above for those employees who work less than a full year may be prorated under rules and regulations promulgated by the chief financial officer or his or her designee.

(d) No business or practitioner shall be required to pay more than one occupation tax for each of its locations.

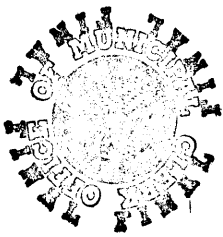


- (e) No occupation tax will be required upon more than 100 percent of a business's gross receipts.
- (f) No occupation tax will be required on gross receipts on which such tax has been levied in other localities or states when proof of payment is provided to the city.
- (g) An occupation tax shall be required from real estate brokers, agents or companies based upon gross receipts of real estate transactions on property located within the city, regardless of the location of their business office.
- (h) An occupation tax shall not be levied in any other manner, on those affected businesses or practitioners except as described in this article.
- (i) Out-of-state businesses with no location in Georgia shall be assessed occupation taxes based on the gross receipts of the business as defined in O.C.G.A. § 14-13-7 which are reasonably attributed to sales or services in the state.

### **Sec. 30-63. Professional occupation tax.**

(a) *Classification.* Practitioners of professions as described in O.C.G.A. § 48-13-9(c)(1)--(18) are as follows:

- (1) Lawyers.
- (2) Physicians.
- (3) Osteopaths.
- (4) Chiropractors.
- (5) Podiatrists.
- (6) Dentists.
- (7) Optometrists.
- (8) Psychologists.
- (9) Veterinarians.
- (10) Landscape architects.
- (11) Land surveyors.
- (12) Practitioners of physiotherapy.
- (13) Public accountants.
- (14) Embalmers.
- (15) Funeral directors.
- (16) Civil, mechanical, hydraulic or electrical engineers.
- (17) Architects.
- (18) Marriage and family therapists, social workers and professional counselors.
- (19) Dealers of motor vehicles, as defined in paragraph (1) of O.C.G.A. 10-1-622
- (20) Owners or operators of bona fide coin operated amusement machines, as defined in O.C.G.A. 48-17-1 and owners or operators of



- businesses where bona fide coin operated amusement machines are available for commercial use and play by the public, provided that such amusement machines have affixed current stickers showing payment of annual permit fees, in accordance with O.C.G.A. 48-17-9
- (21) Merchants or dealers as defined in O.C.G.A. 48-5-354 as to their deliveries to businesses and practitioners of professions and occupations in areas zoned for commercial use; and
  - (22) Any other business, profession, or occupation for which state licensure or registration is required by state law, unless the state law regulating such business, profession, or occupation specifically allows for regulation by local governments

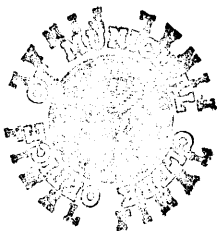
(b) *Determination of rate or amount of payment:* At the time of the payment of the tax, the professional practitioners listed in subsection (a) of this section shall elect as their entire occupation tax one of the following

(1) The occupation tax based on gross receipts combined with profitability ratios and classes as set forth in section 30-62. In the the practitioner of the profession elects to calculate the occupation tax due based on gross receipts combined with profitability ratios and classes as set forth in section 30-62, a fee of seventy-five dollars is imposed to pay the cost to process the payment.

(2) A fee of \$400.00 per practitioner. Practitioners paying according to this subsection shall not be required to provide information to the local government relating to the gross receipts of the business or practitioner. The per-practitioner fee applies to each person in the business who qualifies as a practitioner under the state's regulatory guidelines and framework.

(c) Compliance with this article shall not be a precondition to the practice of any profession, listed herein, or licensed by the state. The sole purpose for the imposition of all fines, penalties and interest provided in this article is to support and enhance the collection of the taxes levied by this article. No administrative fee shall be charged to the practitioner of any profession listed in this section in the event that the practitioner requests to file any documents with the city prior to the time of payment of the tax. It shall be the responsibility of the taxpayer to inform the business tax division of their claim of entitlement to be treated as a practitioner of a profession under state law where the interpretation of this article in such a manner would entitle such taxpayer to a different application of the business tax ordinance or any rules and regulations promulgated by the chief financial officer.

(d) Practitioners of professions may be asked to provide information as to the location where they may be served with notices or citations issued in support of the enforcement of this article and upon the failure or refusal to do so, the city shall direct the notices or citations to the address listed with the appropriate state licensing agency.



#### **Sec. 30-64. Separate businesses.**

Where a business is operated at more than one location or where the business includes more than one line, such business will pay an occupation tax in accordance with the prevailing taxing method and tax rate for the dominant line at each location.

#### **Sec. 30-65. Registration required; renewal; transacting business when registration delinquent.**

(a) All businesses operating within the jurisdiction of the city shall be registered with the business tax division unless exempted by this article or by state law. Any business which anticipates commencing operation on or after January 1 of each year shall within thirty days of commencing such business and, if not exempt from the levy of a registration fee, shall pay said fee in accordance with a city-prescribed schedule. Each such registration shall be for the calendar year in which the registration was obtained unless otherwise specifically provided. Renewal application for a business registered in the previous year should be completed on or before February 15 of each year and payment of the occupation tax should be made by April 1 or by a city-prescribed schedule.

(b) Practitioners of professions or others who are required to obtain a state license or registration are not required to register with the city prior to beginning the practice of the profession for which they have been licensed or registered by the state. Practitioners of professions may be required to submit certain information in order to show compliance with zoning ordinances but such requirement shall only apply where a certificate of occupancy would otherwise be required of any other business and shall not prevent the practice of the profession at any other location already having a valid certificate of occupancy. Practitioners of professions are requested to provide certain information at the time of the initial payment of the tax for the purpose of the orderly administration of the business tax ordinance and the collection of the taxes levied by this article. Where the practitioner of the profession fails or refuses to provide information as to the location where they may be served with notices or citations issued in support of the enforcement of this article, or fails or refuses to keep such information current, the city shall direct the notices or citations to the address listed with the appropriate state licensing agency.

(c) As set forth in Sec. 30-69, there is imposed a penalty upon each person or other entity which fails to apply for and obtain an appropriate business registration and pay all required taxes and fees as provided in this article. Any person or other entity transacting or offering to transact business within the jurisdiction of the city without first having obtained such registration within the time required shall be subject to the payment of those fines, interest and penalties provided in section 30-69 in addition to the payment of all taxes, penalties and interest. This section shall not apply to the practitioners of





professions listed in Sec. 30-63 or in O.C.G.A. § 48-13-9 as it may be from time to time amended.

**Sec. 30-66. Duration of registration.**

- (a) The registration referred to in this article shall automatically expire on December 31 of the year of its issuance.
- (b) Renewal applications for all business required to register shall be completed on or before February 15 of each year. The failure to renew registration by the date required shall be a violation of this article, but such violation shall not prevent any business from being allowed to continue its operation.
- (c) Practitioners of professions shall not be required to comply with this section.

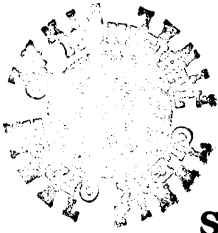
**Sec. 30-67. Fee for registration of business.** The fee for the registration of each business on which a registration fee is levied, as required under section 30-65, shall be \$75.00, to be paid at the time of registering the business.

**Sec. 30-68. Dominant line of business.**

The business registration of each business operated in the city shall identify the dominant line of business that the business conducts, and subordinate lines when appropriate.

**Sec. 30-69. Penalties for failure to register, failure to make timely payment; interest upon unpaid taxes.**

- (a) For those businesses required to register with the business tax division upon commencing operations in the city and which do not do so within thirty days of said, a late fee of \$500 shall be paid at the time of registration.
- (b) Any business registered with the business tax division in a previous year and which fails to register by the date specified in this article shall pay a late fee of \$500 in addition to the tax due.
- (c) Any occupation tax not paid by the due date shall be considered delinquent and bear interest at the rate of 1.5% per month. Any person who fails to pay the occupation tax for ninety (90) days from the due date shall be subject to and shall pay a penalty of 10 percent of the tax due in addition to the tax due and the accrued interest.



**Sec. 30-70. Reserved.**

**Sec. 30-71. Payment of tax; effect of transacting business when tax delinquent.**

- (a) Each such occupation tax shall be for the calendar year 1995 and succeeding calendar years thereafter unless otherwise specifically provided.
- (b) Any business that commences operations in the city is required to pay the occupation tax within thirty days of commencing operations and if such tax is not paid within ninety days of commencing operations, the business will be subject to penalties for delinquency on the unpaid tax as prescribed in this article. Thereafter, the occupation tax shall be due and payable January 1 of each year following and shall, if not paid by April 1 of that year, the business will be subject to penalties for delinquency on the unpaid tax as prescribed in this article.
- (c) Any person transacting or offering to transact business in the city shall be liable for the payment of the occupation tax, and for all penalties and interest as provided in section 30-69.
- (d) For the purpose of administering this section and for the purpose of enforcing the provisions of this article, a person who is an employee or in apparent authority at the location where the business is registered or who is an agent acting in a capacity of apparent authority may be served with any notices and/or citations directed to the taxpayer.
- (e) Practitioners of professions are requested to provide certain information at the time of the initial payment of the tax for the purpose of the orderly administration of the business tax ordinance and the collection of the taxes levied by this article. Where the practitioner of the profession fails or refuses to provide information as to the location where they may be served with notices or citations issued in support of the enforcement of this article, or fails or refuses to keep such information current, the city shall direct the notices or citations to the address listed with the appropriate state licensing agency and shall consider the refusal of the practitioner to be consent to this method of service.

**Sec. 30-72. Casual and isolated activity.**

Nothing contained in this article shall be interpreted as to require any person who may engage in casual or isolated activity and commercial transactions involving personal assets and not the principal occupation of the individual to obtain a business tax registration and pay a tax therefor.

**Sec. 30-73. Refunds.**



(a) If a business ceases operation within a year for which an occupation tax has been paid or credited, the tax shall be refundable, upon request, if, after a final return is filed and after the actual tax liability is calculated, the business tax credited exceeds that liability.

(b) Taxes are also refundable upon written request after a valid amendment is accepted and the business tax credited exceeds the tax liability.

#### **Sec. 30-74. Change of address.**

Any person required to register with the business tax division and who changes the place of operation shall notify the chief financial officer of the the new address in writing on a form provided by the chief financial officer no later than the day of moving. The same business certificate will be valid at the new location if the new location conforms to the zoning regulations of the city.

#### **Sec. 30-75. Returns confidential.**

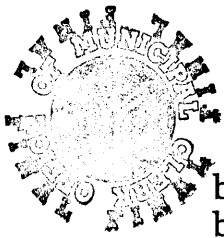
Except in the case of judicial proceedings or other proceedings necessary to collect the occupation tax levied in this article, it shall be unlawful for any officer, employee, agent or clerk of the city or any other person to divulge or make known in any manner the amount of gross receipts or any particulars set forth or disclosed in any occupation tax return required under this article. All contents of the return pertaining to the determination of the amount of business tax shall be confidential and open only to the officials, employees, agents or clerks of the city using such returns for the purpose of this occupation tax levy and the collection of the tax. Independent auditors or bookkeepers employed by the city shall be classed as employees. Nothing in this article shall be construed to prohibit the publication by the city officials of statistics, so classified as to prevent the identification of particular reports or returns and items thereof, the inspection of the records or returns and items thereof or the inspection of the records by duly qualified employees of the tax departments of the state, the United States and other local governments.

#### **Sec. 30-76. Certificate to be available for inspection.**

The certificate issued for any business location shall be available for inspection at the address listed on the certificate and shall be displayed to any authorized enforcement officer of the city when so requested. This requirement may also be satisfied by posting the certificate in some conspicuous place at the address listed on the certificate. This section does not apply to practitioners of professions listed in section 30-63.

#### **Sec. 30-77. Paying tax of business with no location in state.**

Registration and assessment of an occupation tax is imposed on those businesses and practitioners of professions with no location or office in the state if the



business's largest dollar volume of business in the state is in the city, and the business or practitioner:

- (1) Has one or more employees or agents who exert substantial efforts within the jurisdiction of the city for the purpose of soliciting business or serving customers or clients; or
- (2) Owns personal or real property which generates income and which is located within the jurisdiction of the city.

**Sec. 30-78. Number of businesses considered to be operating in city.**

Where a person conducts business at more than one fixed location, each location shall be considered a separate business for the purpose of the business tax. When a practitioner of a profession operates a business at a separate location which is different than the practice of one of the professions listed in Section 30-63, such business shall be considered a separate business.

**Sec. 30-79. Practitioners exclusively practicing for a government.**

Any practitioner whose office is maintained by and who is employed in practice exclusively by the United States, the state, a municipality or county of the state or instrumentalities thereof shall not be required to pay an occupation tax for that practice.

**Sec. 30-80. Allocation of gross receipts of business with multiple intrastate or interstate locations.**

(a) For those businesses that have multiple locations inside and outside of the city where the gross receipts can be allocated to each location, the gross receipts used to determine the business tax assessed will be those gross receipts attributed to each city location. Where the dollar amount of gross receipts attributed locally cannot be determined in those businesses with multiple locations, the total gross receipts will be divided by the total number of locations in the city and elsewhere and allotted to those locations. Upon request, the business or practitioner with a location or office situated in more than one jurisdiction shall provide to the city the following:

- (1) Financial information necessary to allocate the gross receipts of the business or practitioner; and
  - (2) Information relating to the allocation of the business's or practitioner's gross receipts by other local governments.
- (b) Where the business has locations outside of the city and taxation is levied in accordance with a criteria other than gross receipts by the other local governments, the city shall not assess more than the allotted share of gross receipts for the location within the city.



**Sec. 30-81. Tax inapplicable where prohibited by law or provided for pursuant to other existing law.**

An occupation tax shall not apply to the gross receipts of any part of a business where such levy is prohibited or exempted by the laws of the state or of the United States.

**Sec. 30-82. Taxes levied on business to be transacted during current calendar year.**

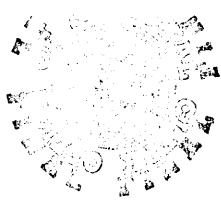
(a) For convenience of both the city and the taxpayer, each business subject to the occupation tax levied in section 30-52 shall, on or before the dates set forth in this section, file with the business tax division the return specifically provided in this section for the calendar year. This return shall be used as the basis for making estimated payments on the occupation tax for the current calendar year. The actual and final amount of tax levied for business transacted in the current calendar year shall be paid in accordance with a renewal or return to be made after the end of the year, in accordance with the procedure set forth in this section. The owner, proprietor, manager or secretary officer of the business subject to such occupation tax of the current calendar year shall, at the end of the preceding year, or before February 15 of the current calendar year, file with the business tax division of the city, on a form furnished by such officer, a signed return setting forth the amount of gross receipts of such business for the entire preceding calendar year. This return, with its depicted gross receipts, will be used to determine the final tax for the calendar year just completed and to estimate the gross receipts, and therefore the occupation tax, for the current year.

(b) Where a business subject to the occupation tax for the calendar year has been conducted for only a part of the preceding year, the amount of gross receipts for such part shall be reported in such return. Such figure shall be appropriately prorated and used as the estimate of the gross receipts of the business for the current calendar year in establishing the business tax liability.

**Sec. 30-83. Overpayment or underpayment of tax.**

(a) If the amount of the occupation tax for the preceding year based on the return provided for in this section and on the rate of such tax provided for in this article is less than the amount of occupation tax theretofore paid by such business based on the estimate filed pursuant to section 30-82, the difference in such amount shall be due and payable by the taxpayer to the city on April 1 or a city-prescribed date of the current year and delinquent if not paid on or before such date.

(b) If the amount of the occupation tax for the preceding year based on the return provided for in this section and on the rate of such tax provided for in this article exceeds the amount of occupation tax theretofore paid by such business



based on the estimate filed pursuant to section 30-82, the difference in such amount shall be refundable, upon written request, by the city to the taxpayer; or, if such business continues to be conducted in the city during the current year, such difference in amount may be credited by the city on the amount of occupation tax to be paid to the city by such business for the calendar year. This election is to be taken by the city.

**Sec. 30-84. Public hearing before tax increase.**

After January 1, 1996, the city council shall conduct at least one public hearing before adopting any ordinance or resolution which will increase the rate of occupation tax as set forth in this article.

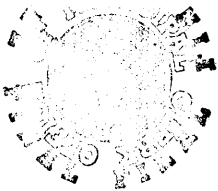
**Sec. 30-85. Copy of latest state tax return or other appropriate documentation of gross receipts required for tax certificate; locations and records open to inspection; record retention requirements.**

(a) Each business, trade, profession, or occupation required to pay a tax based upon gross receipts shall be required to provide the business tax division with a copy of the entity's latest state tax return, or other appropriate documentation of statewide gross receipts that is acceptable to the chief financial officer, upon the renewal, adjustment or final application for a tax certificate.

(b) Upon demand by the chief financial officer or his or her designee, it shall be the duty of any person who is required to obtain a business license from the city to open all portions of any location, where business is conducted inside the city, for the purpose of enabling the chief financial officer or his or her designee to ascertain and gain information necessary for the determination of the proper classification of any business for business or occupation tax purposes.

(c) Upon demand by the chief financial officer or his or her designee, it shall be the duty of any person, who is required to obtain a business license from the city, to produce, furnish or make available, during regular business hours at a location inside the city, all books of account, invoices, papers, reports and memoranda containing entries showing amount of purchases, sales receipts, inventory and other information, from which the determination of the proper classification of any business for the previous three calendar years may be determined for business or occupation tax purposes or from which the amount of business or occupation tax for the previous three calendar years may be determined or verified, regardless of whether such records are maintained outside of the city. Such records may include but are not limited to bank deposit books, bank statements, copies of sales tax reports made to the state of Georgia, and copies of state and federal income tax returns.

(d) Any person who is required to obtain a business license from the city and who is required to produce, furnish or make available, during regular business



hours at a location inside the city, any documents or records described in this article shall keep and preserve all such documents or records for a period which includes the three previous calendar years.

(e) It shall be a violation of this article for any person to fail or refuse to perform any duty herein imposed or to obstruct or interfere with the chief financial officer or his or her designee in the performance of their duties or to refuse to produce, furnish or make available any documents or records described in this article. Any person violating this section may be cited by the compliance investigators and upon conviction by the city court shall be subject to a penalty of ten percent of the estimated business tax or portion thereof then due or \$500.00, whichever is greater. For the purpose of administering this section and for the purpose of enforcing the provisions of this article, a person who is an employee or agent acting in a capacity of apparent authority shall be joint and severally liable for the payment of all fines, taxes, penalties and interest which are past due.

**Sec. 30-86. Appeal of decisions of the chief financial officer; Claims for refunds.**

(a) Any decision of the chief financial officer under this article, including without limitation, such decisions as to entitlement to exemptions, profitability classifications, methods of accounting, the imposition of penalties and interest, and the amount of tax due, may be appealed, in writing by any taxpayer. Such appeal shall be filed in writing with the business tax division and no special form is required except that the taxpayer set forth sufficient information for the determination of the appeal. The taxpayer shall be responsible to set forth the information, which the taxpayer considers pertinent to the appeal and the chief financial officer may consider the appeal based only on the information submitted by the taxpayer. The chief financial officer shall act on such appeals only when submitted by the taxpayer, an attorney acting directly on the behalf of a taxpayer or from a person who presents a signed and notarized power of attorney that they are authorized to represent the taxpayer.

- (i) The filing of an appeal as to the amount of tax due shall not act to relieve the taxpayer of the requirement to pay the amount of tax levied or to prevent the imposition of penalties and interest. The filing of an appeal of the amount of tax calculated to be due follows a separate procedure from a claim for refund and taxpayers are hereby put on notice that the filing of an appeal of the determination of the amount of tax due is not a claim for refund and does not preserve any rights of the taxpayer with respect the time limits within which refunds must be claimed under state law.
- (ii) The chief financial officer shall make a written determination on all appeals, except for claims for refunds, within six months of its filing. Other than a refund claim, any appeal, not acted on within six months is deemed denied.



- (iii) An appeal of a decision of the chief financial officer as to decisions made under this section shall be to the Superior Court of Fulton County by writ of certiorari wherein the errors complained of are plainly and distinctly set forth.
- (iv) Any appeal concerning the issuance of executions shall be governed in the manner set forth by state law.
- (b) Any claim for refund of any tax provided for in this article shall be subject to the provisions set forth in O.C.G.A. § 48-5-380 as it exists now or as it may be amended.
  - (i) Any claim for refund of any tax provided for in this article shall be in writing and shall be addressed, by the taxpayer, to the chief financial officer, who is herein designated by the city council to accept claims for refunds. The claim shall identify the taxpayer, specify the business location, the tax years for which refunds are claimed and the dates of payment for which the refund is claimed. The claim shall also include a summary statement of the grounds on which the taxpayer relies and shall specify the tax years and dates of payments to which such grounds apply. In the event that the taxpayer desires a conference or hearing before the chief financial officer in connection with any claim for refund, the taxpayer shall so specify in writing at the time of filing the claim. The chief financial officer shall grant a conference at a time of his/her convenience except in those cases where the city council must hear the claim.
  - (ii) The date of filing shall be the date that the claim for refund is received by the chief financial officer. In any case where the chief financial officer does not make a refund for any or all of the amount claimed, or cause the refund claim to appear on the agenda of the committee with purview over the department of finance, within one year of the date that the claim is received, the taxpayer may consider that the claim is denied. No claim shall be deemed approved by the failure of the chief financial officer to make a decision on the claim or to failure of the claim to appear on the agenda of the committee with purview over the department of finance. The chief financial officer and the taxpayer may agree in writing to extend the one year period for processing of the claim and such action shall stay the presumption of denial until the written agreement expires.
  - (iii) In cases where there is an obvious clerical error, or the amount to be refunded is \$5,000.00 or less the chief financial officer is authorized to approve any refund and may pay the refund without further authorization of the city council.





- (iv) In cases where there is no obvious clerical error or the amount to be refunded exceeds \$5,000.00, the governing authority shall approve or disapprove the claim through a resolution which shall also be considered at least once at a meeting of the committee with purview over the department of finance, prior to a final vote. In such cases where the taxpayer has requested a hearing before the governing authority, such hearing shall take place at said committee meeting.
- (c) Further proceedings concerning the denial of refund claims shall be as provided in O.C.G.A. § 48-5-380 as it may be from time to time amended.

**Sec 30-87 – 30-89. Reserved.**

**Division 1A Attorneys**

**Sec. 30-90. Effective Date; Repeal of Prior Levy; Levy;**

- (a) For all years including and after the calendar year 2004, Division 1A shall apply to the occupation tax imposed on attorneys engaged in the practice of law in the jurisdiction of the city. Where any part of this article is in conflict with the language of this division, the more specific language of this division shall control.
- (b) The occupation tax levied by Sec. 30-52 is hereby repealed only as it is applied to the professional classification set forth in Sec. 30-63(a)(1) ("Lawyers") and replaced by the occupation tax imposed under this Division 1A. The repeal set forth in this sub-section shall not act to repeal the general levy of Sec. 30-52, on any other occupations, businesses, trades and professions and the general levy authorized therein, except as it is applied to the professional classification set forth in Sec. 30-63(a)(1) ("Lawyers"), is specifically preserved and not repealed.
- (c) As of the effective date of this ordinance, an occupation tax is imposed on the professional classification set forth in Sec. 30-63(a)(1) ("Lawyers") for income earned within the jurisdiction of the city.
- (d) Any attorney who paid an occupation tax for any previous year under the levy imposed by Sec. 30-52 may at his or her option instruct the business tax division to apply that payment to the tax imposed by this Division 1A.

**Sec. 30-92. Attorneys not required to register.**

- (a) Notwithstanding any language to the contrary elsewhere in this article, an attorney shall not be required to register with the business tax division. Information reported with any occupation tax payment may be retained by the business tax division and used for those purposes allowed by applicable law.
- (b) Notwithstanding any language to the contrary elsewhere in this article, an attorney shall not be required to obtain, display or maintain any city issued



certificate showing that any payment or information has been submitted to the business tax division.

(c) For the purposes of enforcement of the zoning ordinance, attorneys may be asked by to submit notarized affidavits or other written information concerning the business or profession carried on at a location and the dates of operation when applying for a certificate of occupancy for new construction or renovation. Such affidavits or documents shall be used for the purposes of determining compliance with the zoning ordinance and shall not prevent the practice of the profession of law at any other location which has a valid certificate of occupancy.

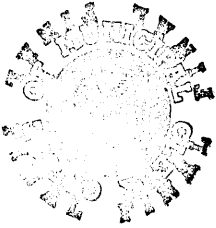
(d) A refusal to submit a notarized affidavit or other written information stating whether a person engages in the practice of law at a particular location or stating the dates of operation at a location shall not be a violation of this article and shall not prevent an attorney from practicing law in the city. The chief financial officer shall document this refusal for use in any later proceeding. Where an attorney fails or refuses to provide information as to the location where they may be served with notices or citations issued in support of the enforcement of this article, the city shall direct the notices or citations to the address listed with the State Bar of Georgia and shall consider the failure or refusal of the attorney to provide current address information to be consent to this method of service.

### **Sec. 30-93. Calculation of amount of tax.**

An attorney who practices law in the jurisdiction of the city shall at their option have their tax rate determined, but not the time of payment, in the manner set forth in Sec. 30-63(b)(1) and Sec. 30-63(b)(2).

### **Sec. 30-94. Date when taxes are due; date when taxes become delinquent; amount of interest and penalties.**

(a) Notwithstanding any language to the contrary elsewhere in this article, an attorney shall not be required to pay the occupation tax on the income generated from the practice of law in any calendar year beginning with and including the year 2004 year until April 1 of the year following. The tax may be may be paid in person at the business tax division or by mailing the tax to the business tax division. Any tax payment made by mail shall include the name and address of the person or law firm paying the tax and the name of each attorney whose tax is being paid, so that the business tax division may process the payment. An attorney who pays the occupation tax on their own behalf shall include the name of the law firm with which they practice, if any. Any tax paid pursuant to the option of Sec. 30-63(b)(1) shall include a written submission containing sufficient information to enable the chief financial officer to determine the accuracy of the taxpayer's calculation.



(b) Taxes due from attorneys shall not be considered delinquent until June 1. An attorney who does not pay the tax prior to June 1 shall incur a penalty of ten percent of the tax due. Any taxes not paid by the due date shall accrue interest at the rate of 1.5% per month.

**Sec. 30-95. Option of the chief financial officer to send bills.**

(a) Notwithstanding any language to the contrary elsewhere in this article, the chief financial officer may choose to send bills to attorneys who list their address with the State Bar of Georgia as being located in the City of Atlanta, including those attorneys who list only post office boxes as their addresses.


(b) An attorney who prepares and signs a notarized affidavit that they did not practice law within the jurisdiction of the city during some part of the tax year for which the tax bill was generated may have their bill adjusted for the time period stated in the affidavit when such attorney did not maintain an office within the jurisdiction of the city and/or states such other reasons why the occupation tax should be adjusted. Such adjustment shall not be made for those attorneys who elect to pay the \$400.00 per practitioner fee as set forth in Sec. 30-63(b)(2) unless the affidavit states that the attorney did not practice law in the jurisdiction of the city at any time during the year for which the tax bill was generated. The chief financial officer is authorized to inquire whether such affidavit matches the information maintained by the State Bar of Georgia in connection with the directives of State Bar Rule 1-207 and/or to take such other steps as deemed necessary to determine the accuracy of the affidavit. The submission of an affidavit requesting adjustment shall not act to prevent the imposition of penalties and interest should the chief financial officer deny the request for adjustment.

(c) The option of the chief financial officer to send bills shall not relieve attorneys from the obligation to pay any tax due for any calendar year including 2004 by April 1 of the following year.

(d) The chief financial officer may include in any bills, the unpaid tax balance from other years, including all fees and penalties and the amount of interest, which has accrued on any unpaid tax liability. The failure of the chief financial officer to list any unpaid balance on any bill shall not operate to relieve the taxpayer from liability for any balance due.

(e) It shall be a violation of this section for any attorney to willfully and intentionally misrepresent a material fact in an affidavit to avoid the payment of the occupation tax imposed by this division, or the occupation tax imposed by Sec. 30-52, and the sole enforcement action to be taken is set forth as follows:

(i) When the chief financial officer has reason to believe that an attorney has willfully and intentionally misrepresented a material fact in any affidavit submitted to business tax division for the purposes of



avoiding full payment of the occupation tax, he or she shall consult with the city attorney to determine whether such conduct should be referred to the State Bar of Georgia for investigation as to whether a violation of the Georgia Rules of Professional Conduct has occurred.

**Sec. 30-96. Tax execution imposed for failure to pay the occupation tax**

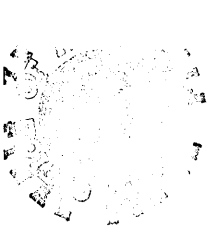
An attorney required to pay the occupation tax and who fails to do so in the manner provided by this article, shall be liable to have the tax and any penalties and interest collected by the issuance of execution by the revenue collection administrator, ex officio marshal or deputy pursuant to O.C.G.A. § 48-13-26. Further proceedings concerning the execution procedure employed in the enforcement of this section shall be as provided by state law. Notwithstanding any language to the contrary in other sections of this article, the use of tax executions and the reporting of any alleged mis-representations as set forth in Sec. 30-95 shall be the sole mechanism for enforcement of the occupation tax levy against attorneys.

**Sec. 30-97. Payment of city funds to attorneys or law firms employing attorneys not in compliance with the requirements of this division is not authorized; occupation tax payments to be considered in employment of attorneys by the city.**

(a) No individual attorney, or law firm employing such attorney, who is delinquent in the payment of the occupation tax authorized by this article, shall be paid for any legal work in which they have represented the city in any capacity, until any outstanding occupation tax liability, including all penalties and interest, has been paid in full. If the chief financial officer believes that an individual attorney, or any attorneys employed by a law firm, seeking compensation for legal services performed for the city, is/are not in full compliance with this division, he or she shall notify the individual attorney, or law firm and present a bill for the amount due. After payment of any outstanding occupation tax liability, the individual attorney, or law firm may be paid for the legal work in which they have represented the city.

(b) The chief financial officer and/or the city attorney are authorized to verify that any individual attorney, or the attorneys employed by any law firm, seeking to represent the city, including without limitation, acting as bond counsel, is/are current in their occupation tax payments prior to their employment. Because of the legal and/or fiduciary relationships, which such representation of the city may create, the chief financial officer and/or the city attorney are authorized to consider compliance with the occupation tax ordinance by the individual attorneys and/or the attorneys employed by the law firm, prior to any employment by the city.

**Sec. 30-98 Appeals and refund claims.**



Appeals of decisions of the chief financial officer and/or refund claims under this division shall be as provided in Sec. 30-86.

**Sec. 30-99-30-100 Reserved.**

RCS# 6139  
10/18/04  
2:33 PM

Atlanta City Council

Regular Session

CONSENT I

CONSENT I PGS 6-18, EXCEPT:04-O-1369  
04-R-1764 04-R-1765  
ADOPT

YEAS: 13  
NAYS: 0  
ABSTENTIONS: 0  
NOT VOTING: 2  
EXCUSED: 0  
ABSENT 1

NV Smith	Y Archibong	Y Moore	Y Mitchell
Y Starnes	Y Fauver	Y Martin	Y Norwood
Y Young	Y Shook	B Maddox	Y Willis
Y Winslow	Y Muller	Y Sheperd	NV Borders

CONSENT I

		10-04-04 Council Meeting
ITEMS ADOPTED ON CONSENT	ITEMS ADOPTED ON CONSENT	ITEMS ADVERSED ON CONSENT
1. 04-O-1570 2. 04-O-1586 3. 04-O-1667 4. 04-O-1669 5. 04-O-1670 6. 04-O-1671 7. 04-O-1672 8. 04-O-1658 9. 04-O-1807 10. 04-O-1810 11. 04-O-1813 12. 04-O-1817 13. 04-O-1850 14. 04-O-1651 15. 04-O-1654 16. 04-O-1808 17. 04-R-1472 18. 04-R-1751 19. 04-R-1798 20. 04-R-1485 21. 04-R-1759 22. 04-R-1760 23. 04-R-1761 24. 04-R-1797 25. 04-R-1824 26. 04-R-1825 27. 04-R-1762 28. 04-R-1754 29. 04-R-1755 30. 04-R-1756 31. 04-R-1757 32. 04-R-1827 33. 04-R-1799 34. 04-R-1768 35. 04-R-1769 36. 04-R-1770 37. 04-R-1771	38. 04-R-1772 39. 04-R-1773 40. 04-R-1774 41. 04-R-1775 42. 04-R-1776 43. 04-R-1777 44. 04-R-1778 45. 04-R-1779 46. 04-R-1780 47. 04-R-1781	48. 04-R-1783 49. 04-R-1784 50. 04-R-1785 51. 04-R-1786 52. 04-R-1787 53. 04-R-1788 54. 04-R-1789 55. 04-R-1790 56. 04-R-1791 57. 04-R-1792 58. 04-R-1793 59. 04-R-1794

**04-0-1810**  
(Do Not Write Above This Line)

AN ORDINANCE

BY DEBI STARNES

AN ORDINANCE AMENDING CERTAIN SECTIONS OF THE CITY OF ATLANTA OCCUPATION TAX ORDINANCE BY THE ADDITION AND DELETION OF CERTAIN LANGUAGE; REPEALING AND REPLACING CERTAIN OTHER SECTIONS CONCERNING THE IMPOSITION OF THE OCCUPATION TAX ON ATTORNEYS; CONFIRMING THE EFFECT OF CITY CODE SEC. 2-105 ON THIS ORDINANCE; AND FOR OTHER PURPOSES

**ADOPTED BY**

OCT 18 2004

**COUNCIL**

**SUBSTITUTE**

- ☐ CONSENT REFER
- ☐ REGULAR REPORT REFER
- ☐ ADVERTISE & REFER
- ☐ 1st ADOPT 2nd READ & REFER
- ☒ PERSONAL PAPER REFER

Date Referred 10/24/04

Referred To: Finance/Executive

Date Referred

Referred To:

Date Referred

Referred To:

First Reading  
Committee \_\_\_\_\_  
Date \_\_\_\_\_  
Chair \_\_\_\_\_  
Referred To \_\_\_\_\_

Committee

Date

Chair

Action

Fav, Adv, Ho 1 (see rev. side)  
C ver

Men vers

ATLANTA CITY COUNCIL PRESIDENT

OCT 18 2004

CERTIFIED

FINAL COUNCIL ACTION

☒ 2nd ☐ 1st & 2nd ☐ 3rd

Readings

☒ Consent ☐ V Vote ☒ RC Vote

*Debi Starnes*  
Chair

Refer To

Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)  
Other

Members

Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)  
Other

Members

**CERTIFIED**

OCT 18 2004

*Paula D. Williams*  
MUNICIPAL CLERK

**APPROVED**

OCT 20 2004

*Paula D. Williams*  
MAYOR